

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 4-09, Development Impact Tax - Deferral

Expedited Bill 4-09, Development Impact Tax - Deferral, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on February 10, 2009. A public hearing is tentatively scheduled for March 3 at 1:30 p.m.

Bill 4-09 would authorize the deferral of Development Impact Taxes for Transportation Improvement and Public School Improvement for a 12-month period.

This packet contains

Expedited Bill 4-09
Legislative Request Report
Memo from County Executive

Circle

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Expedited Bill No. 4-09
Concerning: Development Impact Tax
Deferral
Revised: 2-9-09 Draft No. 2
Introduced: February 10, 2009
Expires: August 10, 2010
Enacted: _____
Executive: _____
Sunset: April 1, 2010
Effective: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) authorize the deferral of certain development impact tax payments for a certain period;
and
- (2) generally amend the law regarding payment of impact taxes.

By adding

Montgomery County Code
Chapter 52, Taxation
Section 52-51A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 52-51A is added as follows:**

2 **52-51A. Deferral of payments.**

3 (a) Definitions. In this Section, the following words have the meanings

4 indicated:

5 (1) Department means the Department of Permitting Services.

6 (2) Director means the Director of the Department of Permitting

7 Services.

8 (3) Impact tax or tax means the Taxes imposed under this Article and

9 Article XII.

10 (4) Owner means a person who has a legal record title interest in real

11 property, including a creditor with a recorded lien on the

12 property, on which taxable development is proposed.

13 (b) Authorization to defer. An owner may defer payment of all impact

14 tax due, if the requirements of this Section are met, for 12 months

15 after a building permit is issued.

16 (c) Conditions of deferral.

17 (1) An owner must apply for deferral of the impact tax to the

18 Director on a form supplied by the Department.

19 (2) As part of the application, the owner must execute a written

20 agreement with the Director. The agreement must confirm that

21 the owner consents to all terms and conditions of the deferral,

22 including collection of the deferred impact tax through the tax

23 sale process and recordation of the agreement or notice of the

24 agreement in the County land records.

25 (3) The Director must record the agreement or notice of the

26 agreement in the County land records. The notice must include a

conspicuous statement that indicates it is being recorded by or on behalf of the County.

(d) Events accelerating payment. All deferred impact taxes and accumulated interest and penalty, if any, become immediately payable when:

(1) the ownership of the property which is subject to a lien for repayment of the impact taxes is transferred; or

(2) the property becomes subject to tax sale.

(e) Payment; early payment; termination of lien.

(1) An owner must pay all deferred impact taxes on or before the end of the deferral period.

(2) After the owner pays the deferred impact tax and any accrued interest and penalty, the Director must record a notice of termination of the tax deferral lien in the County land records. The notice must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.

(f) Interest and penalty for delinquent taxes. Impact taxes paid after the 12 month deferral period expires accrue interest and penalty on the amount of the deferred taxes until paid at the rate which applies to delinquent real property taxes.

(g) Lien on real property and collection. All taxes deferred and any accrued interest and penalty constitute a first lien on the real property to which the taxes apply until paid and must be enforced as provided in Section 52-50(j). Except for a creditor which holds a lien on the property, the deferred taxes constitute a personal liability of the owner of the property.

(h) Penalties for false or fraudulent information. A person who knowingly submits a false or fraudulent application or statement, or withholds information in order to obtain a deferral under this Section:

(1) has committed a Class A violation;

(2) is liable for and must repay to the County any deferred impact taxes plus interest and penalty at the rate which applies to delinquent real property taxes from the date of the deferral to the date of payment; and

(3) is liable for all court costs and expenses of the County, including attorney's fees, in a civil action brought by the County.

(i) Regulations. The County Executive may adopt regulations under Method (2) to administer this tax deferral program.

Sec. 2. Sunset. County Code Section 52-51A, inserted by Section 1 of this Act, expires on April 1, 2010.

Sec. 3. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect 60 days after it becomes law.

Approved:

Philip M. Andrews, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 4-09
Development impact tax deferral

DESCRIPTION: Adds new Sections to the Transportation and School Impact Tax law to allow the deferral of the payment of impact tax for development for 12 months.

PROBLEM: The current economic climate impacts the ability of builders to pay the impact taxes prior to construction.

GOALS AND OBJECTIVES: By deferring payment of impact taxes the legislation will encourage new construction.

COORDINATION: Department of Permitting Services.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: Subject to the general oversight of the County Council and County Executive.

EXPERIENCE ELSEWHERE: Not applicable

SOURCE OF INFORMATION: Tom Street, Assistant Chief Administrative Officer (240-777-2559)

APPLICATION WITHIN MUNICIPALITIES: Yes.

PENALTIES: Class A violation.

BILL



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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

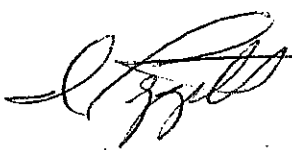
Isiah Leggett
County Executive

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MEMORANDUM

February 4, 2009

TO: Phil Andrews, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation - Deferral of Impact Taxes

I am attaching for the Council's consideration a bill which would allow a business to defer payment of the transportation and school impact taxes for 12 months. I am also attaching a Legislative Request Report for the proposed bill.

This bill is one of four legislative proposals which I am submitting to the Council to implement the 11-point economic plan which I announced in December 2008. Each legislative proposal is designed to ease some of the difficulties experienced by local businesses as a result of the national economic downturn. The current economic climate impacts the ability of builders to pay impact taxes before construction. Allowing a builder to defer payment of impact taxes will help to encourage new construction which is aimed at retaining existing jobs and creating new job opportunities. This deferral is only temporary and enables the payment to be made at a point in the development process that is closer to when a builder can expect to receive income from a project. This will reduce carrying costs for a project.

My 11-point economic plan included a proposal to provide an economic impact analysis for all legislative and regulatory changes which would analyze the impact of each proposed change on local businesses. We are in the process of completing an economic impact analysis for this bill and will forward it to Council in the near future along with the normal fiscal impact statement for the bill. I look forward to working with Council as it considers this bill and my other three legislative proposals which provide opportunities for some measure of relief to our business community and residents.

IL:dg

Attachments (2)